

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOHN ANTHONY FAULKNER,

Petitioner,

v.

No. CV 15-0493 MCA/CEG

GERMAN FRANCO, Warden, and
HECTOR H. BALDERAS, New Mexico
Attorney General,

Respondents.

ORDER DENYING MOTION FOR DISCOVERY

THIS MATTER is before the Court on John Anthony Faulkner's *Motion for Discovery*, (Doc. 22), filed on November 9, 2015. In the Motion, Petitioner requests an order for Respondents' counsel "to produce any and all documents she has as evidence to include but not limited to task Force Agents [sic] reports, chemicals found lists and any and all written evidence she has and serve them upon John Faulkner" (Doc. 22 at 1).

Under the Rule 6 of the Rules Governing § 2254 Cases, "[a] judge may, for good cause, authorize a party to conduct discovery under the Federal Rules of Civil Procedure" Good cause is established "where specific allegations before the court show reason to believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is . . . entitled to relief." *Nubine v. Martin*, No 98-6418, 189 F.3d 478, at *1 (10th Cir. Aug. 24, 1999) (quoting *Bracy v. Gramley*, 520 U.S. 899, 908-09 (1997)). Petitioner's sole assertion in his Motion is that the documents he requests "are crucial to prove [his] innocence" (*Id.*). Neither this conclusory assertion nor the allegations in the Petition and subsequent Declarations (See Docs. 1, 3, 18, 20, 21, & 22) are sufficiently specific to

give the Court reason to believe that Petitioner could demonstrate that he is entitled to relief if only he had access to the requested information. To the contrary, for the reasons set forth in the Court's Proposed Findings and Recommended Disposition (Doc. 24) filed concurrently herewith, the Court finds the Petition lacks merit and further finds that ordering Respondent to produce the discovery Petitioner requested would not help him avoid the dismissal of his claims. Accordingly, the Court finds that Petitioner has not established good cause for ordering discovery in this case.

IT IS THEREFORE ORDERED that Petitioner's *Motion for Discovery*, (Doc. 22), is **DENIED**.



THE HONORABLE CARMEN E. GARZA
UNITED STATES MAGISTRATE JUDGE